

CHAPTER 810

INJURY COMPENSATION PROGRAM

1. **INTRODUCTION.** The Federal Employees' Compensation Act (FECA) (5 USC 8101) provides compensation, medical care, and other benefits for all appropriated fund civilian employees for disability due to personal injuries sustained while in the performance of duty, and diseases proximately caused by employment. The law also provides for the payment of funeral and burial expenses and compensation for dependents if the injury or disease causes the employee's death. FECA is the exclusive method of compensation available to Federal employees in the event of work-related injury, illness or death.

a. Damages for the effects of an injury received while in the performance of duties can only be recovered from the United States through FECA. The benefits provided by FECA constitute the exclusive remedy for work-related injuries, illnesses or death.

b. Disciplinary action, fines, or imprisonment may be levied against any person who:

(1) knowingly makes, or knowingly certifies to any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the FECA or who knowingly accepts compensation to which not entitled;

(2) with respect to a claim under the FECA, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim; or

(3) has responsibility for making reports in connection with an injury who willfully fails, neglects, or refuses to make a report in connection with an injury, knowingly files a false report, induces, compels, or directs an injured employee to forego filing a claim, or willfully retains any notice, report, or paper required in connection with an injury.

2. **ASSISTANCE.** Please refer to Chapter 001 of this Manual for the telephone number to call for additional information or further assistance relative to this Chapter.

3. DEFINITIONS

a. *Benefits or Compensation.* The money allowance payable to an employee or his/her dependents and any other benefits paid from the Employee's Compensation Fund for occupational injury, illness, or death.

b. *Continuation of Pay (COP).* A period of 45 calendar days during which an employee who sustains a disabling, job-related traumatic injury MAY BE entitled to the continuation of his/her regular pay. COP is not considered compensation and is therefore subject to income tax, retirement and other deductions.

c. *Controversion*. Action initiated by an employer to dispute or contest an employee's claim for COP or compensation based on information submitted by the employee and/or information obtained on investigation of claim.

d. *Dependent*. Includes a wife or husband; unmarried children under 18 years of age; an unmarried child over 18 who is incapable of self-support; a student, until he or she reaches 23 years of age or completes four years of school beyond the high school level; or a wholly dependent parent. Stepchildren and adopted children are considered dependents for compensation purposes.

e. *Occupational Illness/Disease*. A condition produced by systemic infections, continued or repeated stress or strain, exposure to toxins, poisons, fumes, etc., or other continued and repeated exposure to conditions of the work environment over a period longer than one work day or work shift. CLAIMS FOR OCCUPATIONAL ILLNESS/DISEASE ARE FILED ON CA-2.

f. *Private Medical Doctor (PMD)*. Includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, osteopathic practitioners and chiropractors within the scope of the practice as defined by state law. (See paragraph 9i of this Chapter for more information regarding chiropractic services.)

g. *Recurrence of disability*. An inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening cause, or a return or increase of disability due to a consequential injury. CLAIMS FOR RECURRENCES ARE FILED ON CA-2a.

h. *Recurrence of medical condition*. A documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. CLAIMS FOR RECURRENCES ARE FILED ON CA-2a.

i. *Traumatic Injury*. A wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected, be caused by a specific event or incident or series of events or incidents within a single day or work shift and must be communicated to the supervisor. Traumatic injuries also include damage to or destruction of prosthetic devices or appliances, including eyeglasses and hearing aids if they were damaged incidental to a personal injury requiring medical services. CLAIMS FOR TRAUMATIC INJURY ARE FILED ON CA-1.

4. RESPONSIBILITIES

The FECA is administered by the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, through district offices located throughout the United States. Determination of the district office responsible for the adjudication of each claim is made based on the geographic location of the employee's residence. Human Resources Office (HRO), Norfolk does not adjudicate claims.

a. *The Director, HRO Norfolk* is designated as the official responsible for assuring that FECA obligations are discharged for those activities serviced by HRO Norfolk.

b. *The Injury Compensation Program Administrator (ICPA)* is designated by the Director to manage, along with additional staff, the day-to-day operations of the FECA program. *Activity Heads* are tasked with reducing compensation and Continuation of Pay (COP) costs by returning injured employees to duty as soon as possible. Activities are strongly encouraged to establish Return-to-Work (RTW) Programs which afford light or limited duty work and/or reasonable accommodation of physical and mental handicapping conditions. (See paragraph 10 of this Chapter for more information on the RTW Program.)

5. CHARGEBACK REPORTS. Local activities are responsible for paying all costs associated with an injured worker's claim. HRO Norfolk will forward quarterly chargeback reports to each of their serviced activities that has incurred compensation costs in that particular quarter. The ending FECA fiscal year (FY) (the FECA FY begins 1 July and ends 30 June) total will be paid in September of the following calendar year. The Defense Finance and Accounting Service (DFAS) prepares Voucher Requests (SF-1082) for each activity that has compensation costs. The vouchers are forwarded by DFAS to Echelon II commands (major claimants) for distribution to the responsible activity. Activities are advised to contact their major claimants to receive specific guidance on the FECA chargeback system.

Vouchers should be verified by the activity comptroller to ensure that the amount is reflective of the 4th quarter chargeback report of the previous FECA FY. For example, ending FY 97, activities that had injury costs in FECA FY 96 (1 July 1995 through 30 June 1996) will receive a voucher indicating that payment will be made for the amount specified. The voucher must be paid within 30 days after the congressional appropriation approval of the next FY funds. No changes are to be made to the voucher; the amount indicated must be paid in full.

HRO Norfolk maintains workers' compensation case files on all injured workers. If activities would like to review these files or discuss how to minimize compensation costs, the ICPA at HRO Norfolk should be contacted.

6. PROCEDURES TO BE FOLLOWED WHEN A TRAUMATIC INJURY OR OCCUPATIONAL DISEASE OCCURS

a. Employees

(1) Orally report an occupational injury, illness, or disease to the immediate supervisor, then report to a Federal Medical Facility (FMF) for medical treatment as may be appropriate; or an employee may elect to be treated by his/her own physician. A Dispensary Permit (OPNAV Form 5100/9) should be obtained from the supervisor if the employee is going to an FMF. Except for referral by the attending physician, any change in treating physician after the initial choice must be authorized by OWCP. Otherwise, OWCP will not be liable for the expenses of treatment. The employee should request any such change in writing with an explanation of the reasons for the request. ALL INJURIES SHOULD BE REPORTED REGARDLESS OF HOW SMALL OR INSIGNIFICANT THE INJURY MAY APPEAR.

(2) Orally notify the servicing HRO Norfolk satellite office of the injury or disease and current status. This notification should include the name and address of the treating physician if the employee has elected to be treated by a private physician. Certain forms may need to be completed when first seen by a private physician.

(3) Although injured employees have 3 years to file a claim for a Traumatic Injury, it is recommended that a written report on CA-1 be submitted to the supervisor within two working days following the injury. This will ensure expeditious processing of the claim and will avoid a possible interruption of compensation when the COP entitlement expires. The employee, or someone acting on the employee's behalf may make this written notification. It must be shown on the form whether the employee wishes to receive sick or annual leave, leave without pay or, if eligible, continuation of pay (COP) for the period of disability. **A CLAIM IS NOT CONSIDERED FILED UNTIL A WRITTEN NOTICE (CA-1) IS RECEIVED BY THE EMPLOYER. EMPLOYEES WHO FILE THEIR CLAIMS MORE THAN 30 DAYS AFTER THEIR INJURY, LOSE THEIR ENTITLEMENT TO COP.**

(4) Although employees have 3 years to file a claim for an Occupational Disease/Illness, it is recommended that a written report on CA-2 be submitted to the supervisor within two working days of when first becoming aware that the illness is related to work. There is no entitlement to COP for Occupational Disease/Illness claims.

(5) If able, return to work and present any medical evidence to the supervisor. If unable to return to work, the supervisor should be informed and provided the date the employee may return to work as established by his/her physician, or the date of next evaluation. If unable to contact the supervisor, the employee shall leave a message for his/her supervisor as to work status.

(6) Report for all scheduled doctor's visits.

(7) Contact the supervisor following each doctor visit and advise of work status. If unable to work as a result of the work-related injury or illness, not only the supervisor should be contacted but also the servicing HRO Norfolk satellite office. All absences from work due to a work-related injury or illness must be substantiated by medical evidence. **It is the responsibility of the employee to provide medical evidence to support his or her claim.**

(8) Return to work on the day indicated by the attending physician.

(9) Obtain prior authorization from OWCP for any surgery, other than emergency surgery, and medical equipment. Contact the servicing HRO Norfolk satellite office for further information regarding approval for surgery or medical equipment.

(10) Notify the attending physician or hospital to send bills directly to the Director, Human Resources Office, ATTN: Injury Compensation Division, 1530 Gilbert Street, Suite 2300, Norfolk, VA 23511-2734, for forwarding to OWCP (see paragraph 8a(3) of this Chapter for further information regarding bills).

(11) Use the minimum amount of time necessary to obtain follow-up medical examination, treatment or physical therapy and return to work. For example, an employee who needs to be away from the job for only two hours to receive follow-up medical treatment in connection with a work-related injury or illness, shall absent himself or herself from the job for only that period of time.

(12) An Application for Leave (SF-71) must be submitted to the supervisor for **all** leave, including COP, or leave without pay (see Chapter 630 of this Manual for procedures for requesting leave).

(13) It is the responsibility of the employee to submit or arrange for the submission of medical evidence of a traumatic injury to the supervisor within ten calendar days after claiming COP. The lack of receipt of such evidence by the supervisor within that timeframe may serve as sufficient reason for termination of COP (see section b(9)(a) of this paragraph).

b. Supervisors

(1) Assure that the employee receives adequate medical treatment, no matter how slight the injury.

NOTE: IN AN EMERGENCY SITUATION, AN EMPLOYEE MAY GO, OR BE TAKEN, TO THE NEAREST HOSPITAL. IF AMBULANCE SERVICE IS NECESSARY, THE CLOSEST FACILITY PROVIDING EMERGENCY AMBULANCE SERVICE SHOULD BE CONTACTED. IF FURTHER TREATMENT IS NEEDED, THE EMPLOYEE THEN HAS THE OPTION TO BE TREATED BY HIS OR HER PRIVATE PHYSICIAN.

(2) Complete OPNAV Form 5100/9 if an employee elects to go to a FMF. The employee has the right to choose whether to be treated at a FMF or by a private physician or hospital in the commuting area.

(3) If the employee wishes to be treated by a private physician in a non-emergency situation, contact the servicing HRO Norfolk satellite office if assistance is needed in scheduling an immediate appointment.

(4) Provide the employee with CA-1 to report a traumatic injury, no matter how insignificant the injury appears. Provide the employee with CA-2 to report an occupational disease or illness. Under no circumstances should an injured employee be discouraged from reporting his or her injury or illness on the appropriate claim form. If an employee is disabled due to a traumatic injury, advise the employee of the right to elect COP or use annual or sick leave, or leave without pay. There is no entitlement to COP for occupational disease claims. Upon receipt of the completed CA-1 or CA-2, complete and return the Receipt of Notice of Injury to the employee. Complete the reverse side of the claim form and forward the original to the servicing HRO Norfolk satellite office within two working days from the date the notice was received. In the case of a traumatic injury, the employee will be kept in a pay status for any fraction of the regularly scheduled work hours in which the injury occurred, unless the injury

occurred prior to the work shift. In these instances, contact the servicing HRO Norfolk satellite office for further guidance.

(5) If absence due to the injury extends beyond the work day or work shift in which the injury occurred, the employee must complete SF-71 to request one of the following:

(a) to be carried in COP status for a period not to exceed 45 calendar days; or

(b) to be carried on sick or annual leave, and/or leave without pay.

(6) If eligible for COP, an employee's pay is continued beginning with the first day or shift of disability or medical treatment following the date of injury, provided that the absence began within 45 calendar days of the injury. If work stoppage occurs for only a portion of a day or shift, a full day of COP will be counted against the 45-calendar day entitlement, even though the employee is not entitled to COP for the entire day or shift.

(7) Once medical evidence supporting disability or medical treatment is received, HRO Norfolk will provide the supervisor and DFAS with a memorandum authorizing and tracking COP. Supervisors are responsible for making any time corrections if records differ from the dates and pay status indicated on the memorandum.

(8) Termination of COP. Where the employer has continued the pay of the employee, it may be stopped only when at least one of the following circumstances is present:

(a) Medical evidence which supports disability is not received within 10 calendar days after the claim is submitted (unless the employer's own investigation shows disability to exist). Where the medical evidence is later provided, however, COP shall be reinstated retroactive to the date of termination.

(b) The medical evidence shows that the employee is not disabled from his or her regular position.

(c) Medical evidence shows the employee is not totally disabled, and the employee refuses a written offer of a suitable alternative position which is approved by the attending physician. If OWCP later determines that the position was not suitable, OWCP will direct the employer to grant the employee COP retroactive to the termination date.

(d) The employee returns to work with no loss of pay.

(e) The employee's period of employment expires or is otherwise terminated (as established prior to the date of injury).

(f) OWCP directs the employer to stop COP.

(g) COP has been paid for 45 calendar days.

(9) Controversion of COP. An employer shall continue the regular pay of an eligible employee without a break in time for up to 45 calendar days, except when, and only when:

- (a) The disability was not caused by a traumatic injury;
- (b) The employee is not a citizen of the United States or Canada;
- (c) No WRITTEN claim was filed within 30 days from the date of injury;
- (d) The injury was not reported until after employment has been terminated;
- (e) The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties;
- (f) The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs; or
- (g) Work did not stop until more than 45 days following the injury.

(10) How to controvert COP. When the employer stops an employee's pay for one of the reasons cited in 6b(9) of this Chapter, the employer must controvert the claim for COP on CA-1 in item 35, explaining in detail the basis for the refusal. The final determination on entitlement to COP always rests with OWCP.

NOTE: A claim, or any portion of a claim, may also be controverted whenever there is doubt as to the validity of the claim. Documentation to support the controversion must be provided to OWCP. If entitled to COP, COP must be continued until OWCP reaches a decision regarding the claim. If the claim is denied, COP must be rescinded.

7. PROCEDURES TO FOLLOW WHEN DISABILITY IS DUE TO A RECURRENCE OF A OCCUPATIONAL INJURY OR DISEASE

a. Employees

(1) Notify his or her immediate supervisor whenever a recurrence of an occupational injury or illness occurs.

(2) Report the recurrence on a Recurrence of Disability and Claim for Continuation of Pay/Compensation (CA-2a) when:

- (a) the recurrence causes an employee to lose time from work and incur a wage loss; or
- (b) if the employee experiences a renewed need for treatment after previously being released from care.

b. *Supervisors*. Upon receipt of a completed CA-2a, complete the reverse side of the CA-2a and forward to the servicing HRO Norfolk satellite office within two working days from the date the notice was received. Contact the servicing HRO Norfolk satellite office if further guidance is needed.

8. HOW TO FILE FOR COMPENSATION

a. *Employees*

(1) If an absence due to an on-the-job injury exceeds 45 calendar days, Part A of Claim for Compensation on Account of Traumatic Injury/Attending Physician's Report (CA-7/CA-20) must be completed and submitted to the servicing HRO Norfolk satellite office in order to file a claim for compensation for lost wages.

NOTE: If the physician indicates that an employee will be disabled in excess of 45 days, both the supervisor and the servicing HRO Norfolk satellite office should be notified as soon as possible. Prompt notification will minimize delays in continued compensation.

(2) Employees that elect to use sick leave or annual leave prior to leave without pay may at a later date request to repurchase the leave on a CA-7 and CA-7a (see paragraph 8c of this Chapter for procedures on leave repurchase).

(3) Bills received for medical care from a private physician or hospital should be sent to the servicing HRO Norfolk satellite office. These bills will be forwarded to OWCP for payment. A copy of all bills received will be maintained in the employee's compensation file. Each bill must be itemized and submitted on an American Medical Association Standard Health Insurance Claim Form (Form HCFA-1500) for health care providers or Form UB-92 for hospitals. For reimbursement of medical expenses paid by the employee, a CA-915 (available at the servicing HRO Norfolk satellite office) must be submitted. For reimbursement for pharmacy bills, a Universal Drug Claim Form or equivalent, must be attached to the CA-915 and must include the following:

- pharmacy's name, address and tax identification number (IRS No);
- claimant's name, address and OWCP claim number;
- name of physician who prescribed the drugs(s);
- eleven digit National Drug Code (NDC);
- date filled;
- name of drug and strength;
- quantity (amount prescribed);
- new prescription or refill number; and
- amount actually paid by claimant.

For reimbursement for medical expenses other than pharmacy drugs, a completed Form HCFA-1500 or UB-92 must be attached to CA-915. Every form must be completed in its entirety in the same manner as bills submitted by the provider and the amount actually paid by the employee

must be included. All medical expenses must be fully supported by medical reports. Claims for travel reimbursement should be submitted on a Travel Voucher (SF-1012), *not* on CA-915.

b. *Supervisors*

(1) Forward CA-7 to the servicing HRO Norfolk satellite office and a compensation specialist will complete Part B of the form.

(2) If an employee is placed on compensation and is subsequently carried in a leave without pay status (LWOP) for 80 hours or more due to an on-the-job injury, a Request for Personnel Action (SF-52) authorizing LWOP and indicating a not to exceed date must be submitted to the servicing HRO Norfolk satellite office. While LWOP may be authorized in increments of 30 days or more, it is recommended that LWOP due to an on-the-job injury be authorized for 1 year. This will eliminate the need for multiple extensions should the employee not be able to return to work when expected.

(3) Notify the servicing HRO Norfolk satellite office when the employee returns to work. HRO Norfolk is required to notify OWCP. Failure, or a delay in notification, will result in an overpayment by OWCP.

(4) Submit SF-52 immediately upon an injured employee's return to work. Failure, or a delay in submitting SF-52, will cause the employee not to be paid by Defense Finance and Accounting Services (DFAS).

9. **BENEFITS**

a. *Compensation in lieu of COP.* Whenever an employee is excluded from COP (see paragraph 6b(10) of this Chapter), the employee may be eligible to receive compensation benefits from OWCP provided he or she meets all the requirements for FECA compensation payments.

b. *Compensation.* Compensation based on loss of wages is payable after the expiration of COP where entitlement exists, or from the beginning of pay loss if pay loss continues for more than 14 calendar days. Otherwise, compensation is payable on the fourth day after pay stops. Compensation may not be paid while an injured employee is in a COP status or receiving pay for leave. Compensation is payable at the rate of:

(1) 66-2/3 percent of the salary for an employee without dependents; or

(2) 75 percent of the salary for an employee with dependents.

c. *Leave Repurchase*

(1) An employee may decide to use sick leave, annual leave, or both to avoid a possible interruption of income. If the employee elects to use leave and the compensation claim is subsequently approved, the employee may arrange to repurchase or "buy back" the leave used and have it reinstated to his or her leave account.

(2) An employee must initiate a claim for leave buy back by filing CA-7 and CA-7a within one year from the date the leave is taken or the date of acceptance of injury from OWCP, whichever is later.

(3) The costs associated with leave buy back are only partly paid by OWCP. The amount OWCP pays to DFAS is determined by the percentage of compensation to which the employee is entitled. Because DFAS pays leave at 100% of salary, the balance of the cost of leave buy back must be paid by the employee. DFAS will notify the employee of the amount he or she owes when a CA-7a is filed. At that time an employee may elect whether or not to continue the leave buy back process.

(4) An employee's pay status must be changed to LWOP in order for compensation to be paid. Leave is not earned while in a LWOP status. Also, contributions to the Thrift Savings Plan (TSP) are not made during LWOP. Therefore, the repurchase of leave may result in a reduction in an employee's leave balance and/or TSP balance. Consult the servicing HRO Norfolk satellite office for more information.

(5) An employee may not repurchase leave used during a period they were eligible for COP.

(6) When disability does not exceed 14 days beyond the COP period, 3 days of LWOP must be charged before compensation can be paid. If leave was used for this period, compensation can not be paid for the 3 days. However, the employee will have to reimburse payroll for the 3 days leave that was paid if he or she is filing for leave buy-back.

d. *Death Benefits.* The survivors of a Federal employee whose death is causally related to employment are entitled to benefits in the form of compensation payments, funeral expenses, transportation expenses for the remains, if necessary, and payment for termination of the deceased's status as a Federal employee.

(1) *Funeral and Burial Expenses.* Up to \$800 may be paid by OWCP for funeral and burial expenses. If the employee dies away from his or her area of residence, the cost of transporting the body to the place of burial will be paid in full. An additional \$200 allowance will be paid in consideration of the expense of terminating the deceased's status as a Federal employee.

(2) Dependents

(a) A surviving spouse with no eligible children is entitled to compensation equal to 50 percent of the deceased employee's salary until death or remarriage if the spouse is under age 55. Upon remarriage, a widow or widower will be paid a lump sum equal to 24 times the monthly compensation at the time of remarriage. The benefits of a spouse who remarries after age 55 will not be affected.

(b) If children are eligible in addition to the spouse, the spouse may receive compensation equal to 45 percent of the deceased employee's salary plus an additional 15 percent for each child, to a maximum of 75 percent of the deceased employee's regular pay. A unmarried child is entitled to compensation if under the age of 18, or if over 18 and incapable of self-support due to a mental or physical disability. An unmarried child between 18 and 23 years of age is entitled to compensation if the child has not completed 4 years of post high school education and is regularly pursuing a full-time course of study.

(c) If the deceased employee leaves no spouse, the first child is entitled to 40 percent and each additional child is entitled to 15 percent of the employee's salary, up to a maximum of 75 percent, payable on a share and share alike basis.

(d) Section 651 of P.L. 104-208, the Omnibus Consolidated Appropriations Act, 1997, authorizes payment of a death gratuity to the personal representative of a civilian employee whose death results from an injury sustained in the line of duty. The amount of payment is \$10,000 less payments made by the OWCP (see paragraph 9d(1) of this Chapter). This payment will be made by the servicing DFAS. Employees or retirees whose death results from an occupational disease are not entitled to the death gratuity payment.

e. *Partial Disability.* An injured employee who cannot return to the position held at the time of injury (or earn equivalent wages) due to the work-related injury, but who is not totally disabled for all gainful employment, is considered to be partially disabled. A partially disabled injured employee is entitled to 66-2/3 percent of his or her loss of wage earning capacity, or 75 percent of the loss when there is a dependent. The compensation will be paid as long as there is a loss of wage earning capacity.

f. *Permanent Total Disability.* When the injury causes permanent total disability, an injured employee is entitled to compensation until death unless the employee is medically or vocationally rehabilitated to either full or partial earning capacity. Permanent total disability is presumed to result from the loss of use of both hands, both arms, both feet, both legs, or the loss of sight of both eyes. However, the presumption of permanent total disability as a result of such loss may be rebutted by evidence to the contrary, such as evidence of continued ability to work and to earn wages despite the loss.

g. *Temporary Total Disability.* When an injury causes temporary total disability, an injured employee is entitled to compensation until death unless the employee is medically or vocationally rehabilitated to either full or partial earning capacity. Temporary total disability is defined as the inability to return to the position held at the time of injury or earn equivalent

wages, or to perform other gainful employment, due to the work related injury. Except as presumed under paragraph f of this section, an employee's disability status is always considered temporary pending return to work.

h. *Attendants Allowance.* OWCP will pay for the services of an attendant up to a maximum of \$1,500 per month, where the need for such services has been medically documented. The services of an attendant must be approved by OWCP and may consist of providing assistance with feeding, bathing, and using the toilet. To be compensable by OWCP, the personal care services must be provided by a home health aide, licensed practical nurse, or similarly trained individual. The provider should submit their bill for services directly to OWCP on Form HCFA-1500. Except in cases where, prior to January 4, 1999, payments were being made directly to the employee, payments will no longer be made directly to the employee for attendant services.

i. *Chiropractor Services.* Chiropractic services are limited to treatment consisting of the manual manipulation of the spine to correct a subluxation (incomplete or partial dislocation) as demonstrated by X-ray to exist. A chiropractor may also provide services in the nature of physical therapy under the direction of a qualified physician.

j. *Schedule Awards.* Compensation is provided for specified periods of time for the permanent loss, or loss of use of certain parts and functions of the body. Partial loss, or loss of use of these parts is compensated on a proportional basis. Such loss or loss of use is known as permanent impairment. The law contains no provision for payment of a schedule award on account of permanent impairment to the back, heart or brain.

k. *Vocational Rehabilitation*

(1) OWCP may, at its discretion, provide vocational rehabilitation services. These services include assistance from registered nurses working under the direction of OWCP. Among other things, these nurses visit the worksite, ensure that the duties of the position do not exceed the medical limitations as represented by the weight of medical evidence, and address any problems the employee may have in adjusting to the work setting. The nurses do not evaluate medical evidence; OWCP claims staff perform this function.

(2) Vocational rehabilitation services may also include vocational evaluation, testing, training and placement services with either the original employer or a new employer when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to an employee's physical reconditioning and behavioral modification needs, and help the employee to meet the demands of current or potential jobs.

l. *Dual Benefits*

(1) Office of Personnel Management (OPM). Except for schedule awards, a person may not concurrently receive compensation from OWCP and a retirement annuity, nor receive

death benefits from OWCP concurrently with a survivor annuity from OPM. A beneficiary entitled to both benefits must elect between them.

(2) Department of Veterans Affairs (VA). Beneficiaries who receive compensation from the VA may also be required to elect between the benefits paid by the VA and those paid by OWCP. Such an election is required when the disability or death resulted from an injury sustained in Federal civilian employment and the VA has held that it was caused by military service, or when the VA increases a service-connected disability award due to an injury sustained in Federal civilian employment. No election is required between OWCP benefits and those granted by the VA for strictly service-related disability. In death claims, any payment made by the VA for funeral or burial expenses may not be duplicated by OWCP.

(3) Social Security Administration (SSA). An employee may receive SSA benefits payable on account of non-Federal employment and OWCP benefits at the same time, subject to an offset to SSA payments according to SSA rules. OWCP benefits will be offset by a SSA calculation for claimants receiving social security benefits (except Social Security disability benefits), who were covered under the Federal Employees Retirement System.

(4) Other Federal Income. An employee may receive compensation concurrently with military retired pay, retirement pay, retainer pay, or equivalent pay for service in the armed forces or other uniformed services.

An employee may receive severance pay concurrently with compensation for a schedule award or for loss of wage-earning capacity, but not with compensation for temporary or permanent total disability. Separation incentive pay may constitute a dual benefit also.

10. RETURN TO WORK (RTW) OF INJURED WORKERS

a. In an effort to contain the expanding costs of compensation, activities must strongly emphasize RTW programs and the application of reasonable accommodation of known handicapping conditions. Guidance and assistance in establishing RTW programs will be provided by the servicing HRO Norfolk satellite office.

b. To assist in the necessary employment decisions for limited duty or light duty assignments for partially disabled employees, the activity may require injured employees to be examined by an activity designated physician to determine whether continuation of absence or return to limited or full duty is warranted. However, no agency-required examination or related activity shall interfere with the employee's initial choice of physician.

c. Upon receipt of a claim for a traumatic injury or occupational illness, the servicing HRO Norfolk satellite office will notify any and all attending physicians in writing that light duty assignments are available and will be adjusted to meet a wide variety of medical restrictions. It is essential that activities forward all claims to the servicing HRO Norfolk satellite office within the two day timeframe in order to avoid paying unnecessary COP costs.

d. The servicing HRO Norfolk satellite office will monitor the employee's medical progress and duty status by obtaining periodic medical reports. To aid in returning an injured employee to suitable employment, the servicing HRO Norfolk satellite office, acting on the employer's behalf, may contact the employee's physician in writing concerning work limitations imposed by the effects of the injury and possible job assignments. However, in accordance with 20 CFR Part 10, Section 10.506, the employer shall not contact the physician by telephone or through personal visit.

e. Job restructuring or job re-engineering can be an effective technique in bringing partially disabled employees back to full-time work. Employees who do not accept a job that is within their physical/mental capabilities of performing may have their compensation benefits reduced or terminated by OWCP.

f. If a temporary or permanent light duty or limited duty assignment is at a lower grade, the employee can be temporarily detailed or offered the lower graded position. If this is done within the 45 day COP period, the employee is entitled to retained pay. If a job offer is made after the 45 day COP period it may include retained pay, or it may be offered at the lower rate. In the latter case, the employee may submit a claim for compensation based on his or her loss of wage earning capacity.

11. RECONSIDERATION. A claimant may ask OWCP to reconsider any determination made by one of its offices. No special form is required to request this reconsideration but the request must be in writing, addressed to the Director of OWCP, and must state clearly the grounds upon which it is based. It must also be accompanied by evidence not previously submitted, such as new medical reports or new statements or new affidavits. A reconsideration must be requested within one year of the date of the issuance of the formal decision being contested.

12. HEARINGS. A claimant who is not satisfied with an OWCP decision may ask for a hearing by an OWCP representative. The request for a hearing must be addressed to the Branch of Hearings and Review, Office of Workers' Compensation Programs, P. O. Box 37117, Washington DC 20013-7117. The employee may request either an oral hearing or a review of the written record. In addition to the evidence of record, new evidence may be submitted to the hearing representative. The hearing request must be made within 30 days of the formal decision being contested. The employee must not have previously submitted a request for a reconsideration. After the hearing OWCP will issue a new decision.

13. APPEALS. A claimant may ask the Employees' Compensation Appeals Board to review final decisions by OWCP. To file an appeal the claimant should write to the Employees' Compensation Appeals Board, 300 Reporters' Building, 7th & D Streets, SW, Washington DC 20210. The Board's jurisdiction extends to questions of law and fact; it may also consider exercises of discretion to determine their reasonableness. Its review is based solely upon the case record in OWCP at the time the final determination was made; new evidence is neither received nor considered by the Board. For claimants residing within the continental United States or Canada, applications for review by the Board are to be filed within 90 days of the date of the final OWCP determination. For good cause shown, the Board may excuse failure to

timely file an application for review if it is filed within one year of the date of the final OWCP determination.

14. CASES INVOLVING LIABILITY OF A THIRD PARTY. When a party other than the employee or agency personnel appears to be responsible for an injury or death, the employee may be asked to seek damages from that party, which may be an individual or product manufacturer. Agency personnel are encouraged to investigate the third party aspect of any claim and submit all information gathered to OWCP. The employee will be contacted with specific instructions concerning this aspect of the claim. The employee should not attempt to settle such a claim without first obtaining advice and approval from the Solicitor of Labor through OWCP.

15. ORDERING OR DOWNLOADING FORMS. CA Forms may be downloaded and further information regarding the FECA Program may be obtained by visiting the OWCP web site: <http://www.dol.gov/dol/esa/public/regs/compliance/owcp/fecacont.htm>.

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